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STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

BULLETIN 91-8
Issued this 9th day of December, 1991

MANAGING GENERAL AGENTS

TO: All Insurers Licensed In Minnesota

In 1991, the Minnesota legislature enacted a new Managing General Agents Act (1991 Session Laws, Ch. 325, Article 4). This Act requires any entity which participates in certain business activities on behalf of an insurer to be licensed as of August 1, 1991. With respect to this new law, please note the following:

1. Definition. Section 2, subdivision 4 of the Managing General Agents Act (the "Act") defines managing general agents as follows:

(a) "Managing general agent" means a person, firm, association or corporation who: (1) negotiates and binds ceding reinsurance contracts on behalf of an insurer, or (2) manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office, and acts as an agent for the insurer whether known as a managing general agent, manager, or other similar term, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to or more than five percent of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year, together with one or more of the following: (i) adjusts or pays claims in excess of an amount determined by the commissioner, or (ii) negotiates reinsurance on behalf of the insurer.

Pursuant to subdivision 4(2)(i), the Commissioner has determined that the definition of a managing general agent shall include any person, firm, association or corporation who adjusts or pays any claim exceeding \$5,000, or any combination of claims, the aggregate of which exceeds \$25,000, in any 12 consecutive months.

2. Business Records. In connection with Section 4(d) of the Act, the Commissioner has determined that business records shall be maintained by the managing general agent for (a) 25 years following the completion of a liability insurance transaction, (b) seven years following completion of a property insurance transaction, or (c) until any statute of limitations applicable to potential claims

arising thereunder has expired, whichever is later. The Commissioner further requires that if the contract between an insurer and a managing general agent is terminated for any reason the managing general agent shall deliver all records to the insurer within 90 days of the effective date of the termination.

3. Notice of Claim. Pursuant to Section 4(g)(2)(i) of the Act, the Commissioner requires a managing general agent to send the insurer a copy of a claim file as soon as it becomes known that such claim might exceed a limit set by the insurer or one-quarter of one percent of the policyholder's surplus as reported in the last annual statement of the insurer, whichever is less.

Under Section 4(g)(2)(v) of the Act, a managing general agent will be required to send the insurer a copy of a claim file as soon as it becomes known that the claim file is closed by payment of an amount set by the insurer or an amount in excess of one-quarter of one percent of the policyholder's surplus as reported in the last annual statement of the insurer, whichever is less.

4. Financial Examinations. Section 5, subdivision 1 of the Act requires that the insurer have on file an independent financial examination, in a form acceptable to the Commissioner, for each managing general agent with which it has done business. The acceptable form for this financial examination shall be an independent audit by a certified public accountant conducted annually and prepared in accordance with generally accepted accounting principles. The independent audit shall include, but is not limited to, the following:

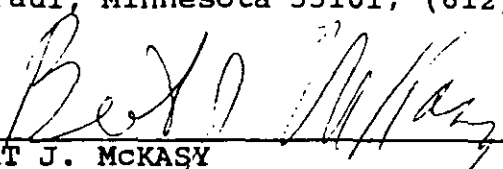
- a) Report of independent certified public account;
- b) Balance sheet;
- c) Statement of income;
- d) Statement of cash flows;
- e) Statement of income and retained earnings;
- f) Notes to financial statements. These notes shall be those required by generally accepted accounting principles; and
- g) A copy of a management letter or a narrative statement setting forth what would have been the content of the management letter, had such letter been completed.

5. Written Notification. Section 5, subdivision 4 of the Act requires an insurer to notify the Commissioner within 30 days of entering into any new contract or any termination of contract with a managing general agent. The statute requires notices of appointment of a managing general agent to include a statement of duties which the managing general agent is expected to perform on behalf of the insurer, the lines of insurance for which the managing general agent is authorized to act, and any other information requested by the Commissioner.

To comply with this section, an insurer must file with the Commissioner a list of the names and addresses of all managing general agents with which the insurer had a contract as of August

1, 1991 (the effective date of the Act). In addition, the insurer shall provide written notification of any new appointment or termination of contract with a managing general agent since August 1, 1991, and on a continuing basis within 30 days of such appointment or termination. This notification shall include the name and address of the managing general agent, the effective date of the termination or appointment, and the name of the officer of the insurer responsible for the contract. An appropriate officer of the insurer shall certify that any managing general agents included on the list or notice filed with the Commissioner are properly licensed under Minnesota insurance laws.

Questions regarding this Bulletin should be directed to the Staff Attorney, Enforcement Division, Minnesota Department of Commerce, 133 E. 7th Street, St. Paul, Minnesota 55101; (612) 296-9423.


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